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ABSTRACT

To determine which factors were considered important in composing legal written documents, personal interviews were conducted with 111 Middle Tennessee Bar Association members, and questionnaires were mailed to 211 legal secretaries/paralegals. The self-administered questionnaires were completed and returned by 133 persons. Of those, 108 indicated that they composed some written communications, 24 indicated no composition, and one did not respond to the question. By comparison, 95% of the lawyers reported delegating some composing decisions to an employee. Responses indicated that lawyers considered the type of communication as well as the employee's attitudes, experiences, and skills before deciding to delegate. Willingness of the employee to assist was most important. Also, the ability of the employee to become knowledgeable in the subject, to plan the content, and to write clearly and concisely were the factors selected most frequently by the lawyers as necessary for the employee accepting composing responsibilities. Necessary employee communication skills included vocabulary development and proofreading skills as well as grammar, organization of facts, punctuation, sentence structure, and spelling. Other skills and characteristics emphasized were dictaphone transcription, shorthand, typewriting, honesty, integrity, and human relations. (HOD)

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FACTORS IMPORTANT IN COMPOSING LEGAL WRITTEN COMMUNICATION

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ABSTRACT

Results of research indicated that most lawyers delegated to employees some written communication composition including both legal instruments and documents. Factors considered before delegation included: subject knowledge, content plan, facts research verification, client and/or appropriate information source contacts, draft, clarity, and conciseness. Necessary employee communication skills included vocabulary development and proofreading skills as well as grammar, organization of facts, punctuation, sentence structure, and spelling. Other skills and characteristics emphasized were dictaphone transcription, shorthand, typewriting, honesty, integrity, and human relations.

INTRODUCTION

The decade of the eighties can be an opportunity for law firm employees to gain the recognition they deserve. They can be given more responsibility; they are able to assume more duties in order to alleviate lawyers of routines that consume their time, which is needed to render legal services needed by clients. Law firm employees, whether legal secretaries, paralegals, or referred to by other job titles, need to develop appropriate communication attitudes and skills as well as skills in researching facts; organizing and planning the content; verifying data; and composing clearly, concisely, and correctly.

The results of research summarized the data of the participants and instruments used. Composing decision factor results delineated major attitudes and skills needed by law-firm employees. Comparison of results of the responses by lawyers and legal secretaries/paralegals was possible for some factors. Legal employees completed self-administered questionnaires; whereas, lawyers were interviewed personally by the researcher.

PARTICIPANTS AND INSTRUMENTS USED

West (1976) used a 10 percent sample of lawyers in middle Tennessee determined by using a standard table of random numbers. Personal interviews were conducted with 111 Middle Tennessee Bar Association members in order to increase reliability and validity of the questionnaire data. Questionnaires were mailed to 211 legal secretaries/paralegals.

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Self-administered questionnaires were completed and returned by 133 persons. Of those, 108 indicated that they composed some written communications, 24 indicated no composition, and one did not respond to the question. By comparison, 95 percent of the lawyers considered that they delegated some composing decisions to an employee; and all were willing for an employee to participate in education for composition improvement.

About one-half of the lawyers indicated that they spent two to three hours daily researching facts or basic background for communications. Of this time, over half of the research could be accomplished by a competently trained employee according to the response indicated by about 40 percent of the lawyers who delegated some composing decisions.

COMPOSING DECISION FACTORS

Composing decision factors were categorized as attitudes and skills. Attitudes presented for lawyers or employees included factors considered before either composing or delegating the composing activities and willingness of the employee to assist the employer. Skills included those skills needed initially and those that can be developed as the employee gained experience.

Factors Considered

During the interview, lawyers were given a card with the following factors: clarity, conciseness, effective use of words, knowledge of subject, logical presentation, plan before beginning, thoroughness, and tone. Each was asked to indicate not more than four of these that were considered before either composing or delegating the composing activity to an employee. Knowledge of subject, plan before beginning, conciseness, and clarity were the four factors selected most frequently. A typical comment was that all factors listed should be considered when composing decisions were being made.

Also during the interview, each lawyer was asked if the person who worked most closely with him/her had indicated a willingness to assist in making composing decisions by planning content, researching facts, verifying facts/figures, contacting client for information, drafting communication, editing/revising communication, and proofreading the communication. The lawyers responded positively regarding each factor in making composing decisions. However, most lawyers indicated that they completed most of the editing/revising work.

The seven factors aforementioned were included on the employee's questionnaire. Also, of the seven, employees who composed indicated a willingness to assist with each factor except the editing/revising process. A typical comment was that verifying facts and/or figures was accomplished usually with the assistance of another employee or with the assistance of the lawyer. Another typical comment indicated that searching for facts was limited to areas in which the employee was most knowledgeable. (p. 92)

Initial Skills

Initially, employees must strive to perfect proofreading skills and to develop their vocabulary. Also, grammar, organization of facts, punctuation, sentence structure, and spelling were noted as necessary communication skills. Wyllie (1977) reported results from secretarial students who worked in legal firms had constant contact with written communication. He cited major problems as follows: use of formal and informal language, agreement of verb and subject, erroneous and confused word choice, verbosity, punctuation, and report organization and structure.

West's study indicated that 88 percent of the employees who composed written legal communication types indicated that from the beginning of employment, proofreading was accomplished most frequently. In 1981, Langley indicated that the Dallas law firm with which she was associated employed two proofreaders and that those persons were responsible for proofreading the original drafts entirely. Proofreading and grammar are very important as Lulow (1980) indicated that one misplaced comma or one omitted clause can alter the meaning of a legal document.

Other initial skills and characteristics emphasized in West's study were accuracy and speed with dictaphone transcription, shorthand, typewriting; honesty and integrity; and human relations. These were emphasized as important to the quality of the written communication. Other characteristics of employees that were ranked as most important by more than 50 percent of the lawyers were confidentiality, loyalty, ability to follow instructions, initiative, efficient time management, and promptness.

Developed Skills

After one to six months, 20 percent of the employees who were composers indicated that they performed these communication duties: drafting, verifying, and contacting clients.

Usually, as written communication skills developed, the employees accepted more composing responsibilities, including searching for facts and verifying facts and figures. Searching for facts occurred at one of several of the following sites--law library, files, employer's office, or courthouse. Verifying facts and figures was accomplished most frequently with someone else and/or by a comparison of the facts or figures with those in a file or similar record. (p. 158)

About 85 percent of the lawyers stated affirmatively that employees could assume more composing responsibilities. Typical responses included:

> Eighty percent of my practice is criminal work. I could use more assistance in procedures, terms, pleading procedures, warrants, and search warrants.
>
> Teach students terms, vocabulary, spelling, the legal language used, and how to prepare petitions for suspended sentence.

If they have the ability and desire to learn, they can assume many more responsibilities. (p. 71)

Most Frequently Composed Communication

Legal papers may be categorized as legal instruments or legal documents. Instruments are associated directly with business transactions; whereas, documents are used in the process of litigation. (Leslie and Coffin, 1968)

In West's study, the lawyers indicated that communications composed most frequently by themselves, their employees, or through combined efforts of both employer/employee included: letters, contracts, agreements, deeds, and pleadings. By comparison the employees indicated the five communications composed most frequently were: deeds, divorce documents, letters, probates, and summons. Written communication duties performed by the employee who worked most closely with the lawyer interviewed included:

Composes most of the routine communication for divorce proceedings
Prepares deeds and some related research
Draws different orders
Does most of the inheritance and income tax work
Makes routine probate settlements (p. 75)

Cited most frequently as communication responsibilities that employees can assume included: preparation of more instruments, documents, repetitive parts of pleadings, interrogatories, subpoenas, and more letters. The type communication composed most frequently by the employee or that could be composed was determined by the type law practice of the employer and the area in which the employee became most knowledgeable.

SUMMARY

Results of research indicated that 95 percent of the lawyers interviewed delegated to employees some written communication composition including both legal instruments and documents. The type of communication as well as the employee's attitudes, experience, and skills must be considered before the lawyer decided to delegate at least part of the composition process. Willingness of the employee to assist was most important. Also, the ability of the employee to become knowledgeable of the subject, to plan the content, and to write clearly and concisely were the factors selected most frequently by the lawyers as necessary for the employee to accept composing responsibilities. Primary communication skills required included proofreading, organizing facts, punctuating sentences, and spelling words correctly.

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